

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

In re: : Chapter 11
:
Circuit City Stores, Inc., et al., : Case No. 08-35653 (KRH)
:
Debtors. :

**RESPONSE OF SNELL ACOUSTICS, INC. TO DEBTORS' FIFTY-EIGHTH
OMNIBUS OBJECTION TO CLAIMS (RECLASSIFICATION OF CERTAIN
MISCLASSIFIED CLAIMS TO GENERAL UNSECURED, NON-PRIORITY CLAIMS)**

COMES NOW Snell Acoustics, Inc., ("Snell Acoustics"), by the undersigned counsel, and for its response to *Debtors' Fifty-Eighth Objection to Claims (Reclassification of Certain Misclassified Claims to General Unsecured, Non-Priority Claims)* ("Objection"), and states as follows:

1. On or about January 30, 2009, Snell Acoustics filed an amended claim with Debtor's claims agent, Kurtzman Carson Consultants, in the total amount of \$8,233.56. On information and belief, the amended claim has been assigned claim number 9227 (the "Claim"). The Claim asserted \$2,166.39 as entitled to administrative expense status, and \$6,067.17 as general unsecured. A copy of the Claim is attached hereto and incorporated in full by this reference as **Exhibit A**. The Debtor's Objection seeks to reclassify the Claim entirely to a general unsecured claim.

2.

2. The administrative expense portion of the Claim is based upon goods sold and delivered to Debtor, in Debtor's ordinary course of business, within forty-five (45) days of the

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commencement of Circuit City's bankruptcy case. See, 11 U.S.C. § 546(c). Additionally, it is based on the reclamation demand letter of November 10, 2008, from John Henderson, Director of Credit, D & M Holdings US, Inc.¹, to Bruce H. Besanko, Chief Financial Officer, Circuit City Stores, Inc. A copy of Mr. Henderson's letter is attached to the Claim.

3. The goods delivered to Debtor within forty-five (45) days of its bankruptcy petition were shipped, in general, pursuant to a letter agreement between Snell Acoustics, Inc. and the Debtor, dated August 2, 2006 ("Letter Agreement"). A copy of the Letter Agreement is attached hereto and incorporated in full by the reference as **Exhibit B**.

4. The person with knowledge of this claim is Mr. John Henderson, as identified above. A Declaration of John Henderson is attached hereto and incorporated in full by this reference as **Exhibit C**.

5. Snell Acoustics reserves its rights to supplement this Response in advance of any final hearing on the Objection.

6. Snell Acoustics originally filed this claim on or about December 19, 2008. On information and belief, the original claim was assigned claim number 1450. As stated above, Snell Acoustics subsequently amended the claim, and the amended claim has been assigned claim number 9227.

7. On or about June 22, 2009, the Debtor filed its Nineteenth Omnibus Objection to Claims (the "Nineteenth Objection"), seeking to reclassify claim number 1450 (the original claim filed by Snell Acoustics) to a general unsecured claim. Snell Acoustics filed its Response to the Nineteenth Objection, which objection remains pending. Then, on or about October 21, 2009, the Debtor filed its Fifty-Seventh Omnibus Objection (the "Fifty-Seventh Objection"). The Fifty-Seventh Objection includes claim number 9227 – the same claim subject to this Fifty-

¹ D & M Holdings is the parent company to Snell Acoustics, Inc.

Eighth Omnibus Objection.² As such, there are now three (3) objections pending regarding this one claim. Snell Acoustics requests resolution of these objections at the same time.

WHEREFORE, Snell Acoustics respectfully requests the Court overrule the Objection, and allow Snell Acoustics' claim as filed, and grant such further relief as is just and proper under the circumstances.

Respectfully Submitted,

SNELL ACOUSTICS, INC.

By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on this 13^{5th} day of November, 2009, a true and accurate copy of the foregoing was electronically filed with the Clerk of the Bankruptcy Court for the Eastern District of Virginia, Richmond Division, using the CM/ECF system, which thereby caused the above to be served electronically on all registered users of the ECF system that have filed notices of appearance in this matter, and was mailed on November 16, 2009, by U.S. Mail, first class, postage prepaid, to all persons on the attached Service List ~~below~~:

² Contemporaneously with the filing of this response to Debtor's Fifty-Eighth Omnibus Objection, Snell Acoustics is filing a response to Debtors' Fifty-Seventh Omnibus Objection.

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